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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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**JUN 13 1997**

Federal Communications Commission  
Office of Secretary

EX PARTE OR LATE FILED

In the Matter of

Revision of Part 2 of the Commission's  
Rules Relating to the Marketing and  
Authorization of Radio Frequency Devices

ET Docket No. 94-45  
RM-8125

**Ex Parte Comments  
of Bosch Telecom GMBH**

Bosch Telecom GMBH ("Bosch"), by its undersigned counsel, submits the following Comments in support of Ericsson Inc.'s ("Ericsson") Petition for Reconsideration ("Petition") of the *Report and Order* in ET Docket No. 94-45 ("Report and Order").<sup>1</sup> Bosch believes that the Commission should reconsider that portion of its order that preserves disparate and unfavorable treatment of foreign-manufactured equipment. As described herein, that distinction serves no regulatory purpose and will inhibit U.S. consumers full and prompt access to worldwide advances in technology.

**I. Introduction**

Bosch is a leading multinational, diversified technology company. Among other products, Bosch manufactures high quality, wireless telecommunications equipment used in the various microwave and mobile services. Some of Bosch's products and prototypes are imported into the U.S. and therefore Bosch is directly interested in this proceeding. As a leading telecommunications

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<sup>1</sup> *In the Matter of Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices, Report and Order, ET Docket No. 94-45, FCC 97-31 (released February 12, 1997).*

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equipment manufacturer who provides its equipment in the United States, Bosch will be subject to any rules adopted in this proceeding and, as such, files these Comments in support of Ericsson's Petition and to urge the Commission to make certain modifications to Part 2 of its rules relating to the importation of unauthorized equipment.

In this proceeding, the Commission amended its marketing regulations and equipment authorization procedures that apply to radio frequency ("RF") devices. For years, the Commission's regulations have prohibited the marketing and operation of an RF device until the manufacturer asserts that the device has complied with the applicable Commission technical standards and has obtained all required equipment authorizations. The new rules generally relax the existing marketing rules in order to facilitate product marketing by equipment manufacturers. The new rules, do not, however, offer the same flexibility for manufacturers using imported products. In its Petition, Ericsson requests reconsideration of the Commission's order to the extent that it adds Section 2.803(h) which continues to impose quantity limits on RF equipment imported for testing and evaluation or demonstration at trade shows.<sup>2</sup>

Bosch firmly supports the Commission's efforts to promote efficient use of spectrum and minimize harmful interference. At the same time, however, Bosch urges the Commission to consider the potential impact of its importation limitation on foreign manufacturers' ability to market equipment in the United States. Bosch respectfully submits that restrictions which limit the number of RF devices that can be imported for testing and evaluation or demonstration at trade shows prior to receiving equipment authorization will distort competition in the telecommunications equipment

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<sup>2</sup> Ericsson Petition at 1.

market and create unreasonable discrimination that could be viewed as a barrier to trade. The import limitation stands in the way of U.S. consumers gaining full and timely access to the complete range of globally available advanced wireless technologies. Accordingly, the Commission should revise its importation rules it provides all manufacturers, both domestic and foreign, with sufficient flexibility to display and promote their products under competitively neutral terms.

## **II. The FCC Should Eliminate Its Importation Limitation on RF Devices**

### **A. The FCC's Importation Limitation Is Anti-competitive**

Undoubtedly, removing foreign manufacturers' ability to market their products under conditions similar to those provided to U.S. manufacturers will limit foreign manufacturers' ability to effectively compete in the domestic telecommunications equipment market. Technology is rapidly advancing, and it is vital for all manufacturers to be able to demonstrate, operate and bring their products to market as soon as possible. Bosch agrees with Ericsson that manufacturers are being requested by numerous licensees and prospective operators who have won licenses in auctions, to demonstrate products.<sup>3</sup> Indeed, in the case of telecommunications equipment, it is necessary for manufacturers to be able to demonstrate their products concurrently to multiple potential customers throughout the entire United States. Accordingly, a limit on the number of RF devices which manufacturers are allowed to demonstrate at one time will hinder the ability to efficiently market to numerous potential users throughout a large geographic area. In this context, providing manufacturers the ability to market, demonstrate and operate domestic products in unlimited

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<sup>3</sup> Ericsson Petition at 6.

quantities, while limiting the number of pieces of imported equipment that may be demonstrated, appears to be a restriction aimed at manufacturers perceived as foreign.

This discrimination is unsound and will inevitably hinder competition in the telecommunications equipment market in the United States. Notwithstanding the Commission's assertion that "these importation limits, combined with the relaxation of the marketing rules, will still provide foreign manufacturers with sufficient flexibility to display and promote their products,"<sup>4</sup> the Commission's rules fail to treat domestic and foreign manufacturers similarly. The Commission's rules allow domestic manufacturers more flexibility to display and promote an unlimited number of pre-authorized products, thereby hindering competition.

Ironically, at virtually the same time that the world is attempting to open global markets to competition and trade through the recently signed Information Technology Agreement ("ITA") and World Trade Organization ("WTO") Agreement, the result of the Commission's limitation on imported unauthorized RF devices is to increase barriers to trade with the United States. As the Commission is well aware, the ITA will eliminate import tariffs on most telecommunications and information technology products by the year 2000. Signing nations account for more than 90% of world trade in such products. In short, the effect of the Commission's limitation on imported RF devices is to undercut the momentum generated by the signing of the ITA to ensure competition in the global telecommunications equipment market.

**B. The FCC's Importation Limitation Is Unfair and Discriminatory**

Bosch shares Ericsson's view that the Commission has little evidence showing that imported

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<sup>4</sup> *Report and Order* at para. 32.

RF devices are more likely to cause problems than domestically produced RF devices or that imported RF devices are more difficult to trace than domestically manufactured RF devices.<sup>5</sup> To the contrary, as a result of a desire to ensure low barriers to entry within the U.S. market and to promote free trade with the United States, foreign manufacturers have traditionally had unique incentives to manufacture equipment that meets the Commission's technical standards for RF devices. Foreign manufacturers are motivated to produce compliant products in order to prevent regulatory agencies of other countries from discriminating against equipment produced abroad. In this case, however, absent proof that imported equipment is more likely to cause interference than domestically produced equipment, the Commission's import quantity restriction is unreasonably discriminatory and Anti-competitive. Not only do these types of restrictions distort the competitive equipment market and unfairly deny American consumers full access to globally available technologies, such policies are beyond the scope of this proceeding and serve no legitimate regulatory purpose. Should the Commission determine that its current rules do not adequately ensure compliance with its technical specifications, then the Commission should seek to strengthen its regulations and apply these rules fairly, unlike here, to both domestic and imported equipment.

### **III. Conclusion**

Bosch supports the Commission's efforts to promulgate rules that relax marketing limitations in order to provide manufacturers with sufficient flexibility to display and promote their products. However, the Commission's rules should ensure that all manufacturers, domestic and foreign alike,

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<sup>5</sup> Ericsson Petition at 4.

are provided the same opportunities to display and promote their products. The Commission's current rules unjustifiably burden foreign manufacturers and foreign products and distort competition in the equipment market thereby harming equipment manufacturers, purchasers and end users. The restrictions serve no useful regulatory purpose and should be eliminated.

Accordingly, Bosch respectfully requests that the Commission modify its rules consistent with the above recommendations.

Respectfully Submitted,

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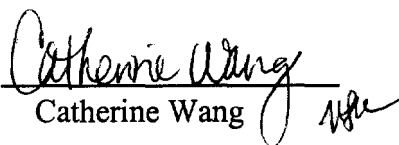
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**CERTIFICATE OF SERVICE**

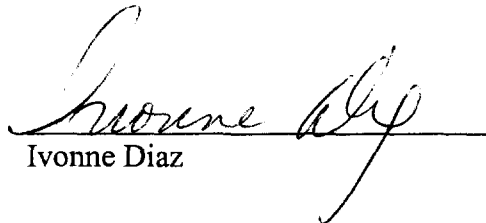
I, Ivonne Diaz, do hereby certify that true and correct copies of the foregoing document, "Ex Parte Comments of Bosch Telecom GMBH" filed in ET Docket No. 94-45, were served by hand or by first-class U.S. Mail, postage prepaid, this 13th day of June, 1997, on the following:

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